(c) In the case of a biological product containing inactivated rabies virus, carton labels and enclosures shall include a warning against freezing; and for

(1) Nerve tissue origin rabies vaccine, a minimum dose recommendation shall be as stated in the approved Outline of Production; *Provided*, That a recommendation shall be made that a dog or cat under 3 months or age shall be revaccinated at 3 months and yearly thereafter; and for

(2) Tissue culture origin rabies vaccine, the minimum dose recommendation shall be as stated in the approved Outline of Production and recommended to be repeated in 30 days and yearly thereafter: *Provided*, That, if the second dose is given to a dog or cat under 3 months of age, a third dose to be given in 6 months shall also be recommended.

(d) In the case of a biological product containing modified live rabies virus, the carton labels, enclosures, and all but very small final container labels shall include the recommendations provided in this paragraph except as provided in subparagraph (5) of this paragraph.

(1) The statement "In high risk areas, revaccinate annually all animals for which this vaccine is recommended."

(2) For low egg-passage (below 180th) egg-passage level), the statement "For Use In Dogs Only! Not For Use In Any Other Animal!"

(3) For other vaccines containing modified live rabies virus, the statement "For Use In (designate animal(s)) Only! Not For Use In Any Other Animal!"

(4) Vaccination recommendations as provided in this paragraph.

(i) Dogs: One dose at age 3 months or older recommended to be repeated every 3 years: *Provided*, That for dogs less than 6 months of age at the time of the initial vaccination, the recommendation shall be for a repeat dose at 1 year of age. Subsequent vaccinations shall be not less frequently than every 3 years thereafter.

(ii) Cats: One dose at 3 months of age and annually thereafter.

(iii) Recommendation for use in animals other than dogs and cats shall be as stated in the approved Outline of Production.

(5) A statement, prominently placed on the enclosure, containing the recommended action to be taken in cases of exposure to the vaccine virus. Satisfactory recommendations may be found in the U.S. Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control Weekly Report, June 24, 1972.

(e) In the case of bovine rhinotracheitis vaccine containing modified live virus, all labeling except small final container labels shall bear the following statement: "Do not use in pregnant cows or in calves nursing pregnant cows."; *Provided*, That such vaccines which have been shown to be safe for use in pregnant cows may be excepted from this label requirement by the Deputy Administrator.

(f) Unless otherwise authorized in an approved Outline of Production, labels for inactivated bacterial products shall contain an unqualified recommendation for a repeat dose to accomplish primary immunization be given at an optimum time interval if such has been established; otherwise, a second dose within 7 days for aqueous products and in 14 days for those containing adjuvants shall be recommended: *Provided*, That repeat dose recommendations prescribed in the subparagraphs of this paragraph are required for products containing the fractions listed:

(1) *Clostridium chauvoei* and/or *Clostridium septicum*. Calves vaccinated under 3 months of age should be revaccinated at weaning or 4 to 6 months of age."

(i) If in combination with *Pasteurella*, add: "Revaccination with Pasteurella Bacterin is recommended at 2 to 4 weeks."

(ii) If in combination with *Clostridium sordellii*, add: "Revaccination with Clostridium Sordellii Bacterin is recommended at 2 to 4 weeks."

(2) *Clostridium Hemolyticum Bacterin*. "Repeat the dose every 5 to 6 months in animals subject to reexposure."

(3) *Clostridium Novyi Bacterin*. "Repeat the dose every 5 to 6 months in animals subject to reexposure."

(4) *Erysipelas Bacterin*. "Swine: For breeding animals, repeat after 21 days and annually." "Turkeys: Repeat dose every 3 months."

(5) *Clostridium Botulinum Type C Toxoid and combinations*. "Revaccinate breeders 1 month before breeding."

§ 112.8 For export only.

The applicable regulations for packaging and labeling a biological product produced in the United States shall apply to such biological product if exported from the United States except as otherwise provided in this section. Only labels approved as provided in § 112.5 shall be used.

(a) Biological products which have been packaged and labeled for export or which have been exported, shall be subject to the applicable provisions in this paragraph.

(1) After leaving the licensed establishment, a biological product shall not be bottled, repackaged, relabeled, or otherwise altered in any way while in the United States; and

(2) An exported biological product shall not be returned to the United States: *Provided*, That, in the case of a biological product exported in labeled final containers, the Deputy Administrator may authorize by permit the importation of a limited number for research and evaluation by the producing licensee; and

(3) An exported biological product which is bottled, rebottled, or altered in any way in a foreign country shall not bear a label which indicates by establishment license number that it has been prepared in the United States.

(b) Desiccated products, packaged and labeled as for domestic use, may be exported without the diluent required for rehydration, if the labeling includes adequate instructions for rehydrating the product prior to use and the words "For Export Only".

(c) Final containers of desiccated products, labeled or unlabeled, with or without required diluent, may be exported in sealed shipping boxes, adequately identified as to contents with an approved label, and plainly marked "For Export Only": *Provided*, That such products shall not be diverted to domestic use.

(d) Completed inactivated liquid products, antiserums, and antitoxins, may be exported in large multiple-dose containers identified with an approved label that contains the words "For Export Only" prominently displayed.

§ 112.9 Biological products to be imported for research and evaluation.

A biological product imported into the United States for research and evaluation under a permit issued in accordance with Part 102 of this subchapter shall be labeled as provided in this section.

(a) The label shall identify the product, shall furnish a dosage table and full instructions for the proper use of the product, shall include all warnings and cautions needed by the permittee to safely use the product, and shall bear a statement "Notice! For Experimental Use Only—Not For Sale!"

(b) The labeling shall contain any other information deemed necessary by the Deputy Administrator and included on the permit.

§ 112.10 Special packaging and labeling.

A biological product, which requires special packaging and/or labeling not provided for in this part, shall be packaged and/or labeled in accordance with requirements written into the approved outline for such product.

Effective dates.—These amendments take effect June 11, 1973, except the rabies vaccine label requirements prescribed in § 112.7 (c) and (d), which shall become effective November 6, 1973.

Done at Washington, D.C., this fourth day of May, 1973.

G. H. WISE,
Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc.73-9213 Filed 5-8-73;8:45 am]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. T]

PART 220—CREDIT BY BROKERS AND DEALERS

Treatment of Simultaneous Long and Short Positions in a Margin Account With Respect to Options

Simultaneous long and short positions in the same security in the same margin account (often referred to as a short sale "against the box") may not be used to supply the place of the deposit of margin ordinarily required in connection with the guarantee by a creditor of a put or

call option or combination thereof on such stock, in accordance with § 220.3(d) (3) and (5) and § 220.3(g) (4) and (5).

§ 220.128 Treatment of simultaneous long and short positions in the same margin account when put or call options or combinations thereof on such stock are also outstanding in the account.

(a) The Board was recently asked whether under regulation T, "Credit by Brokers and Dealers" (12 CFR part 220), if there are simultaneous long and short positions in the same security in the same margin account (often referred to as a short sale "against the box"), such positions may be used to supply the place of the deposit of margin ordinarily required in connection with the guarantee by a creditor of a put or call option or combination thereof on such stock.

(b) The applicable provisions of regulation T are § 220.3(d) (3) and (5) and § 220.3(g) (4) and (5) which provide as follows:

(d) * * * the adjusted debit balance of a general account * * * shall be calculated by taking the sum of the following items:

* * * * *

(3) The current market value of any securities (other than unissued securities) sold short in the general account plus, for each security (other than an exempted security), such amount as the board shall prescribe from time to time in § 220.8(d) (the supplement to regulation T) as the margin required for such short sales, except that such amount so prescribed in such § 220.8(d) need not be included when there are held in the general account * * * the same securities or securities exchangeable or convertible within 90 calendar days, without restriction other than the payment of money, into such securities sold short;

* * * * *

(5) The amount of any margin customarily required by the creditor in connection with his endorsement or guarantee of any put, call, or other option;

* * * * *

(g) * * * (4) Any transaction which serves meet the requirements of paragraph (e) of this section or otherwise serves to permit any offsetting transaction in an account shall, to that extent, be unavailable to permit any other transaction in such account.

(5) For the purposes of this part (regulation T), if a security has maximum loan value under paragraph (c) (1) of this section in a general account, or under § 220.4(j) in a special convertible debt security account, a sale of the same security (even though not the same certificate) in such account shall be deemed to be a long sale and shall not be deemed to be or treated as a short sale.

(c) Rule 431 of the New York Stock Exchange requires that a creditor obtain a minimum deposit of 25 percent of the current market value of the optioned stock in connection with his issuance or guarantee of a put, and at least 30 percent in the case of a call (and that such position be "marked to the market"), but permits a short position in the stock to serve in lieu of the required deposit in the case of a put and a long position to serve in the case of a call. Thus, where the appropriate position is held in an account, that position may serve as the margin required by § 220.3(d) (5).

(d) In a short sale "against the box," however, the customer is both long and short the same security. He may have established either position, properly margined, prior to taking the other, or he may have deposited fully paid securities in his margin account on the same day he makes a short sale of such securities. In either case, he will have directed his broker to borrow securities elsewhere in order to make delivery on the short sale rather than using his long position for this purpose (see also 17 CFR 240.3b-3).

(e) Generally speaking, a customer makes a short sale "against the box" for tax reasons. Regulation T, however, provides in § 220.3(g) that the two positions must be "netted out" for the purposes of the calculations required by the regulation. Thus, the board concludes that neither position would be available to serve as the deposit of margin required in connection with the endorsement by the creditor of an option.

(f) A similar conclusion obtains under § 220.3(d) (3). That section provides, in essence, that the margin otherwise required in connection with a short sale need not be included in the account if the customer has in the account a long position in the same security. In § 220.3(g) (4), however, it is provided that "[A]ny transaction which * * * serves to permit any offsetting transaction in an account shall, to that extent, be unavailable to permit any other transaction in such account." Thus, if a customer has, for example, a long position in a security and that long position has been used to supply the margin required in connection with a short sale of the same security, then the long position is unavailable to serve as the margin required in connection with the creditor's endorsement of a call option on such security.

(g) A situation was also described in which a customer has purported to establish simultaneous offsetting long and short positions by executing a "cross" or wash sale of the security on the same day. In this situation, no change in the beneficial ownership of stock has taken place. Since there is no actual *"contra"* party to either transaction, and no stock has been borrowed or delivered to accomplish the short sale, such fictitious positions woud have no value for purposes of the Board's margin regulations. Indeed, the adoption of such a scheme in connection with an overall strategy involving the issuance, endorsement, or guarantee of put or call options or combinations thereof appears to be manipulative and may have been employed for the purpose of circumventing the requirements of the regulations.

By order of the Board of Governors, April 16, 1973.

[SEAL] CHESTER B. FELDBERG,
Assistant Secretary of the Board.

[FR Doc.73-9125 Filed 5-8-73;8:45 am]

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 722—ADVISORY COMMITTEE PROCEDURES

Miscellaneous Amendments

NOTE: In the FEDERAL REGISTER of Monday, May 7, 1973 at page 11347 this document inadvertently appeared in an incomplete form. It should read as set forth below:

On February 14, 1973, notice of proposed rule making concerning the advisory committee procedures of the National Credit Union Administration was published in the FEDERAL REGISTER (38 FR 4415).

This regulation implements the provisions of the Federal Advisory Committee Act, Public Law 92-463, 86 Stat. 770, effective January 5, 1973, and is applicable to the National Credit Union Board and to any other advisory committee subsequently established to assist the National Credit Union Administration. The regulation deals with the meetings of the National Credit Union Board, procedures to be followed by both the Board and the public, procedures for gaining access to the records to the Board, and administrative relief for denials of requests for records.

After reviewing all comments submitted by interested persons, the proposed regulation is hereby adopted, subject to the following changes:

1. In paragraph (d) of § 722.1, line 2, change the word "desigee" to read "designee".

2. In paragraph (b) of § 722.2, insert the word "general" after the word "a" in line 6.

3. In paragraph (b) (2) of § 722.3, line 6, following the period after the word "meeting", add the following sentence: "Statements may be filed with the Chairman, National Credit Union Board, National Credit Union Administration, Washington, D.C. 20456."

Effective date.—This regulation is effective May 31, 1973.

HERMAN NICKERSON, Jr.,
Administrator.

MAY 1, 1973.

Sec.
722.0 Scope.
722.1 Designated Federal employee.
722.2 Calling of meetings.
722.3 Conduct of meetings.
722.4 Access to records.
722.5 Administrative remedies.

AUTHORITY.—Sec. 120, 73 Stat. 635, 12 U.S.C. 1766 and pursuant to provisions of the Federal Advisory Committee Act, Public Law 92-403, 86 Stat. 770, effective January 5, 1973.

§ 722.0 Scope.

The regulations contained in this part shall be applicable to the National Credit

Union Board and to any other advisory committee hereinafter established to assist the Administration which comes within the terms of the Federal Advisory Committee Act (Public Law 92-463, 36 Stat. 770, effective Jan. 5, 1973). These regulations deal with the meetings of the National Credit Union Board, procedures to be followed, access to records, and administrative relief.

§ 722.1 Designated Federal employee.

(a) The Federal Advisory Committee Act requires that an officer or employee of the Federal Government be designated to chair or attend each meeting of the National Credit Union Board. In fulfillment of this requirement, the Administrator, or his designee shall attend each meeting of the National Credit Union Board.

(b) No meeting of the National Credit Union Board shall be held except at the call of or with the advance approval of the Administrator and no meeting of the National Credit Union Board shall be conducted in the absence of the Administrator or his designee.

(c) The Administrator or his designee may adjourn any meeting of the National Credit Union Board whenever he determines that such adjournment is in the public interest such as in the event of an unwarranted departure from a meeting's agenda. The Administrator shall approve, in advance, the agenda for each meeting of the National Credit Union Board.

(d) The Chairman of the Board or the Administrator, or his designee, may request any attendee not a member of the Board who does not display the proper decorum as established in this part to leave the meeting and if such person refuses, the Chairman of the Board or the Administrator or his designee may order the removal of such person.

§ 722.2 Calling of meetings.

(a) *Time.*—Notice of each meeting of the National Credit Union Board shall be published in the FEDERAL REGISTER at least 7 days prior to the commencement of such meeting except in emergency situations where shorter notice may be required. Normally, notice will be published approximately 25 days in advance of such meeting.

(b) *Contents of notice.*—The notice required in paragraph (a) of this section shall contain the name of the National Credit Union Board, the time and place of the meeting, and the purpose of the meeting, including a general summary of the agenda items. The notice will also state whether there are any items on the agenda which will be closed to the public and the extent to which the public may participate in the meeting.

§ 722.3 Conduct of meetings.

(a) *Agenda.*—Each meeting of the National Credit Union Board shall be conducted in accordance with an agenda which has been approved by the Administrator pursuant to § 722.1(c). The proposed agenda shall be submitted to the Administrator at least 35 days prior to the scheduled date of the meeting except in the case of an emergency meeting where a shorter time may be required. The agenda shall list the matters to be considered at the meeting and shall indicate whether any part of the meeting is concerned with matters which are within the exemptions of the Freedom of Information Act (5 U.S.C. 552(b)). Copies of the agenda shall ordinarily be distributed to members of the National Credit Union Board prior to the date of the meeting.

(b) *Public participation.*—(1) Subject to the provisions of this section, each meeting of the National Credit Union Board shall be open to the public. Each meeting shall be held at a reasonable time and at a place reasonably accessible to the public and shall use facilities of reasonable size considering such factors as the number of members of the public who could be expected to attend the particular meeting, the number of persons who attended similar meetings in the past, and the resources and facilities available to the Administration. Members of the public attending such meeting shall conduct themselves in accordance with these regulations and with proper decorum or subject themselves to removal as set forth in § 722.1(d).

(2) Any member of the public may file a written statement with the National Credit Union Board, either before or after the meeting. Such statement shall become a part of the official record of that particular meeting. Statements may be filed with the Chairman, National Credit Union Board, National Credit Union Administration, Washington, D.C. 20456.

(3) To the extent that the time available for the meeting permits, interested persons may be permitted to present oral statements to the National Credit Union Board: *Provided*, That such persons obtain approval from the Chairman of the Board in advance of the date of the meeting: *And provided further*, That such oral statements are confined to items listed on the published agenda. Such statements will normally be limited to 10 minutes in duration. Such requests should be directed to the Chairman, National Credit Union Board, National Credit Union Administration, Washington, D.C. 20456.

(4) Subject to the limits of time and in the discretion of the Chairman of the Board, members of the public may, during the course of the meeting, submit written questions to the National Credit Union Board. Such questions shall be confined to items on the agenda and, in accordance with the aforementioned limitations, may be answered orally by the National Credit Union Board.

(c) *Meetings closed to the public.*—(1) If a meeting (or portion thereof) will have the express purpose of discussing an existing document which is within one of the exemptions set forth in 5 U.S.C. 552(b), the meeting (or portion thereof) may be closed to the public: *Provided*, That a meeting (or portion thereof) involving consideration of a document prepared by or for the National Credit Union Board and exempt only under exemption (5) of 5 U.S.C. 552(b) (concerning intra- and interagency memoranda and letters) may be closed only if the Administrator determines that it is essential to close such meeting (or portion thereof) to protect the free exchange of internal views and to avoid undue interference with the Administration or National Credit Union Board operations.

(2) If a meeting (or portion thereof) will have the express purpose of discussing a matter which is within one of the exemptions set forth in 5 U.S.C. 552(b), other than exemption (5), the meeting (or portion thereof) may be closed to the public, even though no specific document is to be discussed.

(3) If a meeting (or portion thereof) will be such that neither paragraph (c)(1) nor paragraph (c)(2) of this section furnishes a basis for closing such meeting (or portion thereof), the meeting shall be open to the public unless such a meeting (or portion thereof) will consist of an exchange of opinions, and such discussion, if written, would fall within exemption (5) of 5 U.S.C. 552(b) and it is essential to close such meeting (or portion thereof) to protect the free exchange of internal views and to avoid undue interference with the Administration or National Credit Union Board operations.

(4)(i) When the National Credit Union Board seeks to have a meeting (or portion thereof) closed on the basis of 5 U.S.C. 552(b), the Board shall notify the Administrator in writing setting forth the reasons why the meeting (or portion thereof) should be closed. Such notification shall be submitted to the Administrator at least 35 days prior to the scheduled date of such meeting.

(ii) The Administrator may, upon receiving the proposed agenda pursuant to § 722.3(a), determine that the meeting (or portion thereof) shall be closed even though the National Credit Union Board has not so requested in accordance with paragraph (c)(4)(i) of this section: *Provided*, That this determination is made pursuant to the standards set forth in paragraphs (c) (1), (2), and (3) of this section.

(iii) The determination of the Administrator made pursuant to paragraph (c)(4)(i) or (4)(ii) of this section shall be in writing and shall contain a brief statement of the reasons upon which the determination is based.

(5) The determination with respect to closing a meeting may be made, where appropriate, to a series of meetings but a determination to close a series of meetings does not remove the requirement that public notice be given regarding each meeting.

(6) If a meeting is to consider several separable matters, not all of which are within the exemption of 5 U.S.C. 552(b), only the portion of the meeting dealing with exempted matters (as contained in

paragraphs (c) (1), (2), and (3) of this section) may be closed.

(7) When all or part of a meeting is to be closed, such fact shall be indicated in the public notice of the meeting and in the agenda. When only part of a meeting is to be closed, the agenda shall be arranged, whenever practicable, to facilitate attendance by the public at the open portion of the meeting.

(8) When a meeting (or portion thereof) is closed, members of the National Credit Union Board shall not disclose the matters discussed except to other members of the Board or Administration employees on a need-to-know basis.

(9) When a meeting (or portion thereof) is closed, the National Credit Union Board shall issue a report, at least annually, setting forth a summary of its activities and related matters which are informative to the public and is consistent with the policy of 5 U.S.C. 552(b).

(d) *Minutes.*—Detailed minutes shall be kept of each meeting of the National Credit Union Board. The minutes shall include at least the following: The time and place of the meeting; a list of the Board members and Administration employees present; a complete summary of matters discussed and conclusions reached; copies of all reports received, issued, or approved by the Board; an explanation of the extent to which the meeting was open to the public; an explanation of the extent of public participation, including a list of members of the public who presented oral or written statements and an estimate of the number of members of the public who attended the meeting. The Chairman of the National Credit Union Board shall certify to the accuracy of the minutes.

§ 722.4 Access to records.

(a) *Generally.*—Subject to the provisions of 5 U.S.C. 552, the records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by the National Credit Union Board shall be available for public inspection and copying at the National Credit Union Administration, Washington, D.C. 20456.

(b) *Exemptions.*—Access to the items listed in paragraph (a) of this section is subject to the exemptions contained in 5 U.S.C. 552(b). When the only basis for denying access to a document is exemption (5) (concerning intra- and interagency memoranda and letters), access may not be denied unless the Administrator determines that such denial is essential to protect the free exchange of internal views and to avoid undue interference with the Administration or the National Credit Union Board operations.

(c) *Meeting partially closed.*—With respect to any meeting, part of which was closed to the public, access shall be permitted to records relating to the open portion of the meeting.

(d) *Transcripts.*—In addition to detailed minutes required by § 722.3(d), each meeting of the National Credit Union Board will be recorded, either mechanically or by other appropriate means. Transcripts will not be made unless specifically requested and the actual cost of such transcription shall be paid by the person or persons making the request.

(e) *Procedure for requesting access to records.*—Requests for inspection and copying records under this part shall be made in accordance with the provisions of part 720 entitled "Disclosures of Official Records and Information" of this chapter. Such requests shall be directed to the National Credit Union Board management officer who shall be the assistant administrator for Administration.

§ 722.5 Administrative remedies.

(a) *Records.*—Any person whose request for access to a National Credit Union Board record or document is denied, may seek administrative review of that denial by the Administrator in accordance with the provisions of § 720.4 *Procedure for denials and review of denials of request for records* of this chapter.

(b) *Other matters.*—(1) When there is an allegation of noncompliance with the Federal Advisory Committee Act, of the regulations contained in this part, the allegation shall be filed with the Administrator, in writing, and shall set forth, in detail, the facts constituting the alleged noncompliance.

(2) Complaints under paragraph (b) (1) of this section shall be filed with the Administrator within 35 days after the date of the alleged noncompliance.

(3) The Administrator shall consider the complaint and allegation contained therein and promptly notify, in writing, the complainant of the disposition of the complaint.

[FR Doc.73-8889 Filed 5-4-73;8:45 am]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Releases Nos. 33-5386, 34-10116]

PART 239—FORMS PRESCRIBED UNDER THE SECURITIES ACT OF 1933

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

Disclosure With Respect to Compliance With Environmental Requirements and Other Matters

The Securities and Exchange Commission today adopted amendments to its registration and reporting forms to require more meaningful disclosure of certain items pertaining to business and litigation, and particularly as to the effect upon the issuer's business of compliance with Federal, State, and local laws and regulations relating to the protection of the environment. The forms which are amended are forms S-1 [17 CFR 239.11], S-7 [17 CFR 239.26], and S-9 [17 CFR 239.22] under the Securities Act of 1933 and forms 10 [17 CFR 249.210], 10-K [17 CFR 249.310], and 8-K [17 CFR 249.308] under the Securities Exchange Act of 1934. This action is being taken pursuant to the National Environmental Policy Act (NEPA).

The Commission notes that section 105 of the NEPA states that the policies and goals set forth therein are supplementary to those in existing authorizations of Federal agencies. Having considered the public comments on Securities Act Release No. 5235 (February 16, 1972) [37 FR 4365] it is the Commission's opinion that the amendments will promote investor protection and at the same time promote the purposes of NEPA.

The amendments adopted herewith will require as a part of the description of an issuer's business, appropriate disclosure with respect to the material effects which compliance with environmental laws and regulations may have upon the capital expenditures, earnings and competitive position of the issuer and its subsidiaries. Other amendments describe the extent to which litigation disclosures should contain specific descriptions of environmental proceedings. These amendments obviate the need for the environmental disclosure guidelines set forth in part I of Securities Act Release No. 5170 (July 19, 1971) [36 FR 13989] and accordingly these amendments will supersede such guidelines.

I. *Description of Business.*

The description of business items in the forms require information concerning business done and intended to be done with respect to the development of business during prior years and in future periods. The amendments emphasize the possible future effect of environmental statutes and regulations, and proceedings thereunder, on the issuer, and they specify the information to be furnished in connection with the description of business. Under the description of business items, the amendments require disclosure of the:

> * * * material effects that compliance with Federal, State, and local provisions regulating the discharge of materials into the environment, or otherwise relating to the protection of the environment, may have upon the capital expenditures, earnings and competitive position of the registrant and its subsidiaries.

The Commission is aware that the amendments do not specify any minimum or maximum time period in the future required to be described. However, inasmuch as environmental compliance programs for different industries may involve substantially differing leadtimes, the Commission feels the time period is best left unspecified. If management has a reasonable basis to believe that future environmental compliance may have a material effect on the issuer's expenditures, earnings, or competitive position in the industry, then such matters should be disclosed.

Expenditures solely attributable to compliance with environmental provisions should be disclosed if material. When expenditures are partly for the replacement, modification, or addition of

equipment or facilities, and partly for the purpose of complying with any environmental provisions, management should estimate the cost of environmental compliance when there is a reasonable basis to segregate such amount. Such disclosures should be based upon all information reasonably known to management and should not be calculated and stated on an annual basis when such would diminish the apparent materiality of the expenditures or result in nondisclosure.

II. *Legal Proceedings.*

The amendments include several revisions relative to disclosure requirements for legal proceedings. It is noted that some of the forms have a separate item for legal proceedings; others contain requirements or instructions under the business caption.

A. Item 12 of form S–1 now generally requires information as to material legal proceedings "known to be contemplated by governmental authorities." The Commission has adopted amendments the same as those published for comment to include a requirement similar to that in form S–1 in item 10 of form 10 and item 5 of form 10–K. The requirement is applicable to proceedings relating to environmental matters as well as to other types of proceedings.

B. The existing requirements in the various forms pertaining to disclosure of litigation generally call only for a description of certain proceedings. The Commission has adopted amendments to forms S–1, 10, 10–K, and 8–K, as published for comment, to require a description of the factual basis of the proceedings and the relief sought. The Commission notes that nothing in the amendments alters the present practice permitting in disclosures of legal proceedings, counsel's opinion as to the meritorious character of the claim and as to the validity of alleged defense or cross-claims.

C. Heretofore, instructions under item 12 of form S–1, item 10 of form 10, item 5 of form 10–K, and item 3 of form 8–K have stated that a legal proceeding is not material if it involves primarily a claim for damages and if the amount involved does not exceed 15 percent of the issuer's current assets on a consolidated basis. The amendments adopt the proposals published for comment to reduce this standard of economic materiality to 10 percent of current assets, as being a more realistic test of materiality and one which conforms to other similar standards appearing elsewhere in the Commission's rules and forms. This reduction will apply to all forms of litigation, regardless of whether it is related to the environment.

D. Presently, the instructions to the items of the forms mentioned in the preceding paragraph state that even though a legal proceeding does involve damages in an amount meeting the standard of economic materiality, information need not be given if the proceeding is considered "ordinary routine litigation incidental to the business." The Commission has adopted amendments to the instructions to the litigation items to state that administrative or judicial proceedings arising under any Federal, State, or local provision regulating the discharge of materials into the environment, or otherwise specifically relating to the protection of the environment, shall not be considered "ordinary routine litigation incidental to the business," and shall be described if such proceeding is material to the business or financial condition of the registrant or if it involves primarily a claim for damages and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis.

E. At the present time, the Commission's disclosure forms contain no specific requirement for obtaining descriptions of environmentally related proceedings, although certain descriptions are called for in Securities Act Release No. 5170. Securities Act Release 5235 proposed a revision to the litigation items to indicate, generally, that any environmentally related administrative or judicial proceeding by governmental authority shall be deemed material and shall be described. The Commission at this time believes that the proposal on this matter is too broad and that the disclosures elicited by the proposal generally would cause the disclosure documents filed with the Commission to be excessively detailed without commensurate benefit to average investors. Accordingly, the Commission has revised the proposal published for comment to indicate that detailed disclosure of each such proceeding need not be given. Instead, issuers may set forth groupings of similar proceedings, specifying the number of such proceedings in each group, giving generic descriptions thereof, stating the issues generally involved, and, if such proceedings in the aggregate are material to the business of financial condition of the issuer, describing the effect of such proceedings on the issuer. Any such single proceeding, whether public or private, involving a claim for damages in excess of 10 percent of the issuer's current assets on a consolidated basis, or which otherwise may be material, should be individually described. The proposals under the instructions to the litigation headings included the following sentence: "Any such proceedings by private parties shall be described if material." Under the amendments adopted, that sentence is deleted as being redundant; other provisions of the amendments establish that private environmentally related proceedings shall be described if they are material. The Commission intends to review the disclosures resulting from this requirement to determine whether subsequent modification is appropriate, in the public interest and for the protection of investors in such a manner as will promote the purposes of NEPA.

III. *General.*

Under amendments to the description of business and the litigation items, the types of environmental provisions dealt with are those "regulating the discharge of materials into the environment, or otherwise relating to the protection of the environment." The Commission recognizes that this description, particularly the last clause thereof, is broad. Also, with respect to certain types of provisions, the description may not give a precise answer as to whether or not a given provision lies within the description quoted. To provide assistance to issuers, the staff will be available to respond to written inquiries.

Commission action.—Pursuant to authority in sections 6, 7, 8, 10, and 19(a) of the Securities Act of 1933 and sections 12, 13, 15(d), and 23(a) of the Securities Exchange Act of 1934, the Commission hereby amends §§ 239.11, 239.26, 239.22, 249.210, 249.310, and 249.308 of chapter II of title 17 of the Code of Federal Regulations all as set forth below:

I. § 239.11 is amended as follows:

A. Item 9(a) of § 239.11 is amended by adding thereto a new instruction 5 reading as follows:

5. Appropriate disclosure shall also be made as to the material effects that compliance with Federal, State, and local provisions which have been enacted or adopted regulating the discharge of materials into the environment, or otherwise relating to the protection of the environment, may have upon the capital expenditures, earnings, and competitive position of the registrant and its subsidiaries.

B. Item 12 of § 239.11 is amended to read as follows:

Item 12. Legal Proceedings.

Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the registrant or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, and the principal parties, thereto, a description of the factual basis alleged to underlie the proceeding and the relief sought. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

Instructions. 1. [No change.]

2. No information need be given with respect to any proceeding which involves primarily a claim for damages if the amount involved exclusive of interest and costs, does not exceed 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis. However, if any proceeding presents in large degree the same issues as other proceedings pending or known to be contemplated, the amount involved in such other proceedings shall be included in computing such percentage.

3. [No change.]

4. Notwithstanding the foregoing, administrative or judicial proceedings arising under any Federal, State, or local provisions regulating the discharge of materials into the environment or otherwise relating to the protection of the environment shall not be deemed "ordinary routine litigation incidental to the business" and shall be described if such proceeding is material to the business or financial condition of the registrant or if it involves primarily a claim for damages and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis. Any such proceedings by governmental authorities shall be deemed material and shall be described whether or

not the amount of any claim for damages involved exceeds 10 percent of current assets on a consolidated basis and whether or not such proceedings are considered "ordinary routine litigation incidental to the business": *Provided, however,* That such proceedings which are similar in nature may be grouped and described generically stating: The number of such proceedings in each group; a generic description of such proceedings; the issues generally involved; and, if such proceedings in the aggregate are material to the business or financial condition of the registrant, the effect of such proceedings on the business or financial condition of the registrant.

II. § 239.26 is amended as follows:

A. Item 5(a) of § 239.26 is amended to read as follows:

(a) Identify the business done and intended to be done by the registrant and its subsidiaries. In the case of an extractive enterprise, give appropriate information as to development, reserves, and prodution. Appropriate disclosure shall be made with respect to (i) any portion of the business which may be subject to renegotiation of profits or termination of contracts or subcontracts at the election of the Government, and (ii) the material effects that compliance with Federal, State, and local provisions which have been enacted or adopted regulating the discharge of materials into the environment, or otherwise relating to the protection of the environment, may have upon the capital expenditures, earnings and competitive position of the registrant and its subsidiaries.

B. Item 5(e) of § 239.26 is amended to read as follows:

(e) Briefly describe any pending legal proceedings to which the registrant or any of its subsidiaries is a party which may have a substantial effect upon the earnings or financial condition of the registrant, and any administrative or judicial proceedings (i) now pending, or (ii) known to be contemplated by governmental authorities, arising under any Federal, State, or local provisions referred to in (a)(ii) above, including the name of the court or agency, the factual basis alleged to underlie the proceeding, and the relief sought.

III. § 239.22 is amended as follows:

A. Item 3 of § 239.22 is amended by adding thereto the following new paragraph (c):

(c) Appropriate disclosure shall be made as to the material effects that compliance with Federal, State, and local provisions regulating the discharge of materials into the environment, or otherwise relating to the protection of the environment, may have upon the capital expenditures, earnings, and competitive position of the registrant and its subsidiaries.

IV. § 249.210 is amended as follows:

A. Item 1(b) of § 249.210 is amended by adding thereto a new instruction 6 reading as follows:

6. Appropriate disclosure shall also be made as to the material effects that compliance with Federal, State, and local provisions which have been enacted or adopted regulating the discharge of materials into the environment, or otherwise relating to the protection of the environment, may have upon the capital expenditures, earnings, and competitive position of the registrant and its subsidiaries.

B. Item 10 of § 249.210 is amended as follows:

Item 10. Legal Proceedings.

Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the registrant or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceeding, and the relief sought. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

Instructions. 1. [No change.]

2. No information need to be given with respect to any proceeding which involves primarily a claim for damages if the amount involved, exclusive of interest and costs, does not exceed 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis. However, if any proceeding presents in large degree the same issues as other proceedings pending or known to be contemplated, the amount involved in such other proceedings shall be included in computing such percentage.

3. [No change.]

4. Notwithstanding the foregoing, administrative or judicial proceedings arising under any Federal, State, or local provisions which have been enacted or adopted regulating the discharge of materials into the environment or otherwise relating to the protection of the environment, shall not be deemed "ordinary routine litigation incidental to the business" and shall be described if such proceeding is material to the business or financial condition of the registrant or if it involves primarily a claim for damages and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis. Any such proceedings by governmental authorities shall be deemed material and shall be described whether or not the amount of any claim for damages involved exceeds 10 percent of current assets on a consolidated basis and whether or not such proceedings are considered "ordinary routine litigation incidental to the business": *Provided, however,* That such proceedings which are similar in nature may be grouped and described generically stating: The number of such proceedings in each group; a generic description of such proceedings; the issues generally involved; and, if such proceedings in the aggregate are material to the business or financial condition of the registrant, the effect of such proceedings on the business or financial condition of the registrant.

V. § 249.310 is amended as follows:

A. Item 1(b) of § 249.310 is amended by adding thereto a new paragraph reading as follows:

(7) The material effects that compliance with Federal, State, and local provisions which have been enacted or adopted regulating the discharge of materials into the environment, or otherwise relating to the protection of the environment, may have upon the capital expenditures, earnings, and competitive position of the registrant and its subsidiaries.

B. Item 5 of § 249.310 is amended to read as follows:

Item 5. Legal Proceedings.

Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the registrant or any of its subsidiaries is a party or of which any of their property is the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to underlie the proceeding, and the relief sought. Include similar information as to any such proceedings known to be contemplated by governmental authorities.

Instructions. 1. [No change.]

2. No information need be given with respect to any proceeding which involves primarily a claim for damages if the amount involved, exclusive of interest and costs, does not exceed 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis. However, if any proceeding presents in large degree the same issues as other proceedings pending or known to be contemplated, the amount involved in such other proceedings shall be included in computing such percentage.

3. [No change.]

4. Notwithstanding the foregoing, administrative or judicial proceedings arising under any Federal, State, or local provisions which have been enacted or adopted regulating the discharge of materials into the environment or otherwise relating to the protection of the environment, shall not be deemed "ordinary routine litigation incidental to the business" and shall be described if such proceeding is material to the business or financial condition of the registrant or if it involves primarily a claim for damages and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis. Any such proceedings by governmental authorities shall be deemed material and shall be described whether or not the amount of any claim for damages involved exceeds 10 percent of current assets on a consolidated basis and whether or not such proceedings are considered "ordinary routine litigation incidental to the business": *Provided, however,* That such proceedings which are similar in nature may be grouped and described generically stating: The number of such proceedings in each group; a generic description of such proceedings; the issues generally involved; and, if such proceedings in the aggregate are material to the business or financial condition of the registrant, the effect of such proceedings on the business or financial condition of the registrant.

VI. § 249.308 is amended as follows:

A. Item 3 of § 249.308 is amended to read as follows:

Item 3. Legal Proceedings.

(a) Briefly describe any material legal proceedings, other than ordinary routine litigation incidental to the business, to which the registrant or any of its subsidiaries has become a party or of which any of their property has become the subject. Include the name of the court or agency in which the proceedings are pending, the date instituted, the principal parties thereto, a description of the factual basis alleged to under the proceedings, and the relief sought.

(b) [No change.]

Instructions. 1. [No change.]

2. No information need be given with respect to any proceeding which involves primarily a claim for damages if the amount involved, exclusive of interest and costs, does not exceed 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis. However, if any proceeding presents in large degree the same issues as other proceedings pending or known to be contemplated, the amount involved in such other proceedings shall be included in computing such percentage.

3. [No change.]

4. Notwithstanding the foregoing, administrative or judicial proceedings arising under any Federal, State, or local provisions regulating the discharge of materials into the environment or otherwise relating to the protection of the environment, shall not be deemed "ordinary routine litigation incidental to the business" and shall be described if such proceeding is material to the business or financial condition of the registrant or if it involves primarily a claim for damages and the amount involved, exclusive of interest and costs, exceeds 10 percent of the current assets of the registrant and its subsidiaries on a consolidated basis. Any such proceedings by governmental authorities shall be deemed material and shall be described whether or not the amount of any claim for damages involved exceeds 10 percent of current assets on a consolidated basis and whether or not such proceedings are considered "ordinary routine litigation incidental to the business": *Provided, however,* That such proceedings which are similar in nature may be grouped and described generically stating: The number of such proceedings in each group; a generic description of such proceedings; the issues generally involved; and, if such proceedings in the aggregate are material to the business or financial condition of the registrant, the effect of such proceedings on the business or financial condition of the registrant.

The foregoing amendments shall be effective with respect to reports and registration statements filed on or after July 3, 1973.

[SEAL] RONALD F. HUNT,
Secretary.

APRIL 20, 1973.

[Secs. 6, 7, 8, 10, 19(a), 48 Stat. 78, 79, 81, 85; secs. 205, 209, 48 Stat. 906, 908; sec. 301, 54 Stat. 857; sec. 8, 68 Stat. 685; 15 U.S.C. 77f, 77g, 77h, 77j, 77s(a); secs. 12, 13, 15(d), 23(a), 48 Stat. 892, 894, 895, 901; sec. 203(a), 49 Stat. 704; secs. 1, 3, 8, 49 Stat. 1375, 1377, 1379; sec. 2, 52 Stat. 1075; sec. 202, 68 Stat. 686; secs. 3, 4, 6, 10, 78 Stat. 565, 569, 570, 580; secs. 1, 2, 82 Stat. 454; secs. 1, 2, 3, 4, 5, Public Law 91-567, 15 U.S.C. 78l, 78m, 78o(d), 78w(a).]

[FR Doc.73-9093 Filed 5-8-73;8:45 am]

[Release No. 34-10093]

PART 240—GENERAL RULES AND REGULATIONS SECURITIES EXCHANGE ACT OF 1934

Indefinite Continual Suspension of Exempted Securities

On January 30, 1973, in Securities Exchange Act Release No. 9974 (37 FR 4401), the Commission suspended the operation of paragraph (m) of rule 15c3-3 under the Securities Exchange Act of 1934 as to sell orders for exempted securities (e.g., U.S. Government and municipal obligations) until March 1, 1973,[1] and requested the comments of interested persons regarding the operational problems encountered by customers in making deliveries of exempted securities within the designated time frame of paragraph (m). The Commission has carefully considered the comments received and has determined that due to representations made concerning possible operational hardships that may result from attempts to buy-in exempted securities, particularly municipal obligations, the Commission will continue the suspension of paragraph (m) with respect to exempted securities for an indefinite period.[2]

The Commission has been advised that primarily because of the very thin floating supply and numerous serial maturities of municipal obligations such securities may be difficult to buy-in and very often contracts to purchase such obligations may remain failing for long periods of time.

The Commission believes that the failure or inability of customers, whether they be public customers, financial institutions or banks, and broker-dealers to make timely delivery of such obligations is a problem requiring the Commission's continuing attention, particularly in light of the obligations of SIPC to complete the open contractual commitments of insolvent broker-dealers in which a customer has an interest and in light of the Commission's desire to improve the processing of securities transactions. The Commission believes that the problem requires further study before any final conclusions and determinations can be made. Therefore, the Commission has today sent a letter to all registered national securities exchanges and the National Association of Securities Dealers, Inc. (NASD) requesting them to adopt procedures for monitoring failing contracts and open transactions in exempted securities of both customers and broker-dealers and the methods by which such contracts and transactions are closed out.

The indefinite suspension of paragraph (m) with regard to exempted securities relieves a restriction within the meaning of 5 U.S.C. 553(d) and is effective immediately.

The following is the text of the letter sent to all registered national securities exchanges and the NASD:

To Presidents of Self-Regulatory Organizations:

On January 30, 1973, in Exchange Act Release No. 9974, the Commission suspended the buy-in provision found in paragraph (m) of rule 15c3-3 with respect to exempted securities until March 1, 1973 and requested comments from interested parties regarding the operational problems encountered by customers in making deliveries of exempted securities within the designated time frame of paragraph (m). In Exchange Act Release No. 10020, the Commission continued that suspension until April 10, 1973 and today has determined to continue the suspension until further notice. It has been represented to the Commission, is such that it is difficult to buy-in customers who fail to make timely delivery of their securities to a broker-dealer after sale. There are limited statistics as to the nature and extent of failing contracts and open transactions in exempted securities and the manner in which those failing contracts and transactions are eventually settled or closed out.

In order for the Commission to evaluate the extent of the problems associated with the failure of customers, financial institutions, banks, exempt dealers or broker-dealers to make timely settlements of exempted securities to fulfill the Commission's obligation to insure the expeditious processing of securities transactions, the Commission requests your organization to adopt procedures for monitoring such failing contracts and open transactions. It is suggested that the information regarding exempted securities should include the number of such failing contracts and open transactions in exempted securities and the dollar amount thereof whether due to or from customers, financial institutions, banks, exempt dealers or broker-dealers. The monitored data should also indicate the manner in which such transactions and contracts are eventually closed out. Such failing contracts and transactions should be aged to indicate those which have not been settled within 10 business days after settlement date and those which have not been settled within 30 calendar days after settlement date.

As this matter is of importance in the performance of the Commission's obligations under the Federal securities laws to protect the integrity of customers' funds and securities and of the SIPC Fund and to improve the processing of securities transactions, we would appreciate it if you would act promptly to adopt such procedures.

If you have any further questions on this matter, please do not hesitate to contact us.

Sincerely,

LEE A. PICKARD,
Director.

By the Commission.

[SEAL] RONALD F. HUNT,
Secretary.

APRIL 10, 1973.

[FR Doc.73-9126 Filed 5-8-73;8:45 am]

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[1] The suspension was continued until April 10, 1973 (see Securities Exchange Act Release No. 10020, March 1, 1973) [37 FR 6277].

[2] Broker-dealers are reminded that paragraph (m) remains in effect as to the sale transactions by all customers with regard to all securities other than exempted securities.

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER J—RIGHT-OF-WAY AND ENVIRONMENT

PART 790—PUBLIC HEARINGS (CORRIDOR AND DESIGN)

This amendment adds a new part, part 790, to the regulations of the Federal Highway Administration.

Part 790 implements 23 U.S.C. 128, which requires public hearings in Federal-aid highway projects and 23 U.S.C. 109(h) requiring the promulgation of guidelines designed to insure that possible adverse social, economic, and environmental effects have been fully considered in the development of Federal-aid highway projects. It establishes rules intended to afford full opportunity for effective public participation in the consideration of highway location and design proposals by highway departments before submission to the Federal Highway Administration for approval.

It codifies policies and procedures previously contained in Federal Highway Administration Policy and Procedures Memorandum 20-8 and Instructional Memorandums IM 20-3-72 and 20-4-72.

In consideration of the foregoing, effective May 9, 1973, chapter 1 of title 23,